

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

DEBORAH PUSTULKA :  
49970 Greystone Drive :  
Amherst, OH 44001-9851 :

Plaintiff, :

v. : CASE NO. 1:22-cv-342

BOARD OF EDUCATION OF THE :  
LORAIN CITY SCHOOL DISTRICT :  
2601 Pole Avenue :  
Lorain, OH 44052 :

and :

JEFFREY GRAHAM, CEO OF THE :  
LORAIN CITY SCHOOL DISTRICT :  
2601 Pole Avenue :  
Lorain, OH 44052 :

Defendant. :

**COMPLAINT**  
**(TRIAL BY JURY ENDORSED HEREON)**

**INTRODUCTION**

1. This is an action brought to secure enforcement of federally protected rights under the due process clause of the Fifth Amendment of the Constitution of the United States made applicable to the states by the Fourteenth Amendment to the Constitution of the United States.

2. Plaintiff seeks declaratory relief, reinstatement, damages, and attorney's fees under 42 U.S.C. §1988.

### **CLAIMS AND JURISDICTION**

3. This action is initiated pursuant to 42 U.S.C. §1983, to redress the deprivation of Plaintiff's property interest by Defendants without Defendants having afforded Plaintiff due process of law, in violation of the right guaranteed to her under the Fourteenth Amendment to the United States Constitution.

4. Jurisdiction is invoked pursuant to 28 U.S.C. §1343(a)(3) and (4). To the extent declaratory relief is sought, claims are asserted pursuant to 28 U.S.C. §§2201 and 2202. Venue is proper in the Northern District of Ohio, Eastern Division.

5. At all times relevant to this Complaint, Defendants have acted under color of law.

### **PARTIES**

6. Plaintiff is a person employed by Defendant Board of Education of the Lorain City School District (hereinafter "the Board") under an Administrator's Contract. A copy of said Contract is attached hereto and marked as **Exhibit A**. Plaintiff has at all times relevant to this Complaint had a property interest in her said Contract.

7. The Board is and was at all times relevant to this Complaint Plaintiff's employer and a political subdivision of the State of Ohio capable of suing and being sued and is charged with, among other things, affording due process of law to its employees who have a property interest in their employment or employment contracts.

8. Defendant Jeffrey Graham (hereinafter "Defendant Graham") is and was at all times relevant to this Complaint the CEO of the Lorain City School District.

### **FIRST CLAIM FOR RELIEF**

9. Plaintiff restates and incorporates herein her prior allegations.

10. Plaintiff has and had a property interest in her Contract protected by the due process clause of the Fourteenth Amendment to the Constitution of the United States (hereinafter the “Fourteenth Amendment”).

11. Ohio’s statutory procedure for contract terminations for educators such as Plaintiff is found in Ohio Rev. Code 3319.16 and Ohio Rev. Code 3319.161, and it has been determined that those statutes satisfy the due process requirement of the Fourteenth Amendment. In a letter dated December 16, 2021, Defendant Graham notified Plaintiff, in relevant part, as follows:

You are hereby removed from your position as principal effective immediately. Since your conduct also reflects poorly on your ability to serve the district as a licensed teacher you are also suspended without pay from any duties with the school district, also effective immediately.

A true and accurate copy of said letter is attached hereto and marked as **Exhibit B**.

12. In a letter dated December 16, 2021, the Board, through its treasurer, informed Plaintiff in relevant part as follows:

Chief Executive Officer, Dr. Jeffrey Graham, has determined that your conduct as Principal of Palm Elementary does not fit in with his plans to reconstitute Palm Elementary School. This letter also is formal notice of Chief Executive Officer for the District’s, Dr. Jeffrey Graham’s, removal of you as an administrator (Principal) for the Lorain City School District pursuant to Ohio Revised Code §3302.10. Your removal as Principal of Palm Elementary is effective immediately.

A true and accurate copy of said letter is attached hereto and marked as **Exhibit C**.

13. Effective December 17, 2021, Defendants have terminated Plaintiff’s Contract and employment, have paid her no compensation and have not afforded Plaintiff her fringe benefits under her Contract. Defendants have not provided Plaintiff with any of her rights under Ohio Rev. Code 3319.16 and do not intend to do so and, in fact, have refused to do so. In a document titled Deborah Pustulka’s Demand for Referee Hearing, Plaintiff demanded, in part, as follows:

I further demand a Referee hearing with respect to the December 16, 2021 notice of termination provided to me by Dr. Jeff Graham, Superintendent/CEO, Lorain City Schools.

A true and accurate copy of said Demand is attached hereto and marked as **Exhibit D**.

14. In a letter dated January 3, 2022, the Board, through its treasurer, wrote to the Interim Ohio Superintendent of Public Instruction stating, in part, as follows:

It is the position this school district that as a district under academic distress, pursuant to ORC 3302.10, the CEO of the district has plenary authority to remove Ms. Pustulka from her position as principal of Palm Elementary. This district therefore objects to the jurisdiction of any referee to determine whether the termination of Ms. Pustulka as principal was for good cause.

A true and accurate copy of said letter is attached hereto and marked as **Exhibit E**.

15. In the event that Defendant Graham claims that because the school district is under academic distress neither he nor the Board are required to provide Plaintiff with any rights under Ohio Rev. Code 3319.16 or any due process of law prior to terminating her employment contract and depriving her from all compensation and benefits thereunder, Plaintiff seeks a declaratory judgment from this Court declaring that Defendants have no such right.

### **SECOND CLAIM FOR RELIEF**

16. Plaintiff hereby restates and incorporates herein her prior allegations.

17. Plaintiff has been damaged by the unconstitutional actions of Defendants and is entitled to reinstatement under her Contract, a recovery of all of her back pay and damages resulting from being deprived of her fringe benefits and other entitlements under her Contract, damages resulting from any lost service credit for State Teachers Retirement System purposes, her reasonable attorney's fees, her costs, compensatory damages for her mental anguish and distress, and punitive damages (if applicable).

**WHEREFORE**, Plaintiff prays for a judgment against Defendants and for the following relief:

- A. a declaratory judgment declaring that Defendants may not terminate Plaintiff's Contract without affording Plaintiff her rights under Ohio Rev. Code 3319.16; and
- B. an order reinstating Plaintiff under her Contract, \$100,000, an award of back pay and damages to compensate her for her benefit loss and service credit loss, damages to compensate her for her mental anguish and distress, punitive damages (if applicable) and an award of attorney's fees under 42 U.S.C. 1988; and
- C. her costs and such other and further relief to which she is or may become entitled.

**JURY DEMAND**

Plaintiff hereby demands a trial by jury on all issues so triable.

Respectfully submitted,

MANOS, MARTIN & PERGRAM CO., LPA

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